

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-294-C - ORDER NO. 2006-85  
FEBRUARY 8, 2006

IN RE: Application of Pac-West Telecomm, Inc. for a	)	ORDER
Certificate of Public Convenience and	)	GRANTING
Necessity to Provide Facilities-Based and	)	CERTIFICATE,
Resold Interexchange and Local Exchange	)	APPROVING MODIFIED
Communications Services, for Modified	)	ALTERNATIVE
Alternative Regulation for Certain	)	REGULATION AND
Interexchange Services and for Flexible Rate	)	FLEXIBLE
Structure for Local Exchange Service	)	REGULATION
Offerings.	)	

This matter comes before the Public Service Commission of South Carolina (the “Commission”) by way of the Application of Pac-West Telecomm, Inc. (“Pac-West” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide facilities-based and resold interexchange and local exchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2004) and the rules and regulations of the Commission. By its Application, Pac-West also requests modified alternative regulation of its business services offerings identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C as modified by Order No. 2001-997, flexible regulation of its local exchange service offerings pursuant to Order No. 98-165 in Docket No. 1997-467-C, and requests waiver of certain Commission regulations.

The Commission's Docketing Department instructed Pac-West to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Pac-West and of the manner and time in which to file the appropriate pleadings for participation in the proceeding. Pac-West complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (SCTC). Subsequent to the intervention, Pac-West and SCTC reached a Stipulation, attached hereto as Order Exhibit 1.

A hearing was convened on January 9, 2006, at 10:00 a.m. in the Commission's Meeting Room, Columbia, South Carolina, before David Butler, Hearing Examiner. Pac-West was represented by John J. Pringle, Jr., Esquire. The Office of Regulatory Staff (ORS) was represented by Lessie Hammonds, Esquire and Nanette Edwards, Esquire. Prior to the presentation of testimony, it was announced that Pac-West and ORS had reached a settlement, which was amended at the hearing by Pac-West and the ORS. The Amended Settlement Agreement is attached hereto as Order Exhibit 2. The parties also announced that they had reached an agreement on revisions to the Company's local exchange and interexchange tariffs. Revised tariffs were submitted into the record as a hearing exhibit.

John Sumpter, Vice President of Regulatory for the Company, appeared and testified in support of the Application. The record reveals that Pac-West is incorporated in California and has registered to transact business in South Carolina as a foreign

corporation. According to Mr. Sumpter, Pac-West proposes to operate primarily as a wholesale provider of various services to other voice and data providers.

Mr. Sumpter explained the Company's request for authority, and the record further reveals the Company's services, operations, and marketing procedures.

Mr. Sumpter also discussed Pac-West's technical, financial, and managerial resources to provide the services for which it seeks authority. Mr. Sumpter offered that Pac-West possesses sufficient financial resources to support its operations in South Carolina. With regard to management and technical capabilities, the Company has not been denied a license in any of the states in which it has applied, has had no licenses revoked in any jurisdictions, nor has it been the subject of any investigations by any governmental regulatory agencies. The Company's Application and Mr. Sumpter's testimony both evidence that Pac-West's management team has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Mr. Sumpter also testified that Pac-West will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. Sumpter offered that approval of Pac-West's Application would serve the public interest by increasing the level of competition in South Carolina. Mr. Sumpter, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610 and to be allowed to keep the Company's books at its headquarters in California. Further, the Company requests an exemption from record keeping policies that require maintenance of financial records in conformance with the Uniform System of Accounts (USOA), including so much of 26 S.C. Code Ann. Regs. 103-611 as may codify that requirement.

Pac-West maintains its books in accordance with Generally Accepted Accounting Principles (GAAP). In addition, the Company requests that it not be required to publish local exchange directories, and therefore requests waiver of 26 S.C. Code Ann. Regs. 103-631.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Pac-West is incorporated under the laws of the State of California and is authorized to do business as a foreign corporation in the State of South Carolina by the Secretary of State.

2. Pac-West has no reported record of violations of regulatory laws or regulations in the jurisdictions in which it is currently operating.

3. Pac-West desires to operate as a provider of resold and facilities-based interexchange and local exchange telecommunications services in South Carolina, providing services primarily to other carriers and providers.

4. We find that Pac-West possesses the managerial experience and capability to operate as a provider, through resale and facilities-based provisioning, of interexchange and local exchange services in South Carolina.

5. We find, based on the financial statements submitted by the Company, that Pac-West possesses sufficient financial resources to provide the services as described in its Application.

6. We find that the issuance of a Certificate of Public Convenience and Necessity to Pac-West to operate as a facilities-based provider and reseller of interexchange and local exchange telecommunications services in South Carolina would be in the best interest of the citizens of South Carolina by increasing the level of competition in South Carolina, by providing an alternative source for telecommunications services, and by creating incentives for lower prices, more innovative services, and more responsive customer service.

7. Pac-West has no current plans to maintain offices in South Carolina and requests a waiver of 26 S.C. Code Ann. Regs. 103-610. The Commission finds Pac-West's requested waiver reasonable and understands the difficulty presented to Pac-West should the waiver not be granted. Further, we find that a waiver of 26 S.C. Code Ann. Regs. 103-610 to be in the public interest. We also believe that exemption from the policies that would require the Company to keep its records under the USOA is reasonable, including so much of 26 S.C. Code Ann. Regs. 103-611 as may require the usage of USOA. Additionally we find that a waiver of 26 S.C. Code Ann. Regs. 103-631 is reasonable and in the public interest.

8. The Company has the managerial, technical, and financial resources to provide the services as described in its Application. S.C. Code Ann. Section 58-9-280(B)(1) (Supp. 2004).

9. The Commission finds that the Company's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. Section 58-9-280(B)(3) (Supp. 2004).

10. The Commission finds that the Company will support universally available telephone service at affordable rates. S.C. Code Ann. Section 58-9-280(B)(4) (Supp. 2004).

11. The Commission finds that services to be provided by the Company will meet the service standards of the Commission. S.C. Code Ann. Section 58-9-280(B)(2) (Supp. 2004).

12. The Commission finds that the provision of local exchange service by the Company “does not otherwise adversely impact the public interest.” S.C. Code Ann. Section 58-9-280(B)(5) (Supp. 2004).

13. Following execution of a Stipulation with intervenor South Carolina Telephone Coalition (SCTC), the SCTC withdrew its opposition to the Application.

#### **CONCLUSIONS OF LAW**

1. The Commission concludes that Pac-West possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that Pac-West will participate in the support of universally available telephone service at affordable rates to the extent that Pac-West may be required to do so by the Commission.

3. The Commission concludes that Pac-West will provide services which will meet the service standards of the Commission.

4. The Commission concludes that approval of Pac-West’s Application to provide intrastate telecommunications services within South Carolina will serve the

public interest by enhancing competition in the State of South Carolina by offering additional service offerings to South Carolina's consumers and by providing for efficient use of existing telecommunications resources.

5. The Commission concludes that the provision of telecommunications service by Pac-West will not adversely impact the public interest.

6. The Commission concludes that the issuance of the authority to provide intrastate local exchange and interexchange telecommunications services as requested by Pac-West and as set forth in its Application, is in the best interests of the citizens of the State of South Carolina.

7. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Pac-West to provide facilities-based and resold intrastate interexchange and local exchange telecommunications services.

8. The Commission adopts a rate design for Pac-West for its residential interexchange services which includes maximum rate levels for each tariff charge. A rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels has been previously adopted by the Commission. In Re: Application of GTE Sprint Communications Corporation, etc., Order No. 84-622, issued in Docket No. 84-10-C (August 2, 1984).

9. Pac-West shall not adjust its residential interexchange rates below the approved maximum level without notice to the Commission and to the public. Pac-West shall file its proposed rate changes, publish its notice of such changes, and file affidavits of publication with the Commission two weeks prior to the effective date of the changes.

However, the public notice requirement is waived, and therefore not required, for reductions below the maximum cap in instances which do not affect the general body of subscribers or do not constitute a general rate reduction. In Re: Application of GTE Sprint Communications, etc., Order No. 93-638, issued in Docket No. 84-10-C (July 16, 1993). Any proposed increase in the maximum rate level for residential interexchange services reflected in the tariff which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540(Supp.2004).

10. The Commission concludes that Pac-West's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to



certain “operator-assisted calls” where a customer uses a local exchange carrier’s calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

11. The Commission concludes the Company’s local exchange telecommunications services shall be regulated in accordance with the principles and procedures established for flexible regulation first granted to NewSouth Communications by Order No. 98-165 in Docket No. 97-467-C. Specifically, the Commission adopts for the Company’s competitive intrastate local exchange services a rate structure incorporating maximum rate levels with the flexibility for adjustment below the maximum rate levels that will have been previously approved by the Commission. Further, the Company’s local exchange service tariff filings are presumed valid upon filing, subject to the Commission’s right within thirty (30) days to institute an investigation of the tariff filing, in which case the tariff filing would be suspended pending further Order of the Commission. Further, any such tariff filings will be subject to the same monitoring process as similarly situated competitive local exchange carriers.

12. We conclude that Pac-West's request for waiver of 26 S.C. Code Ann. Regs. 103-610 should be granted as strict compliance with the regulation would cause undue hardship on Pac-West. We also grant exemption from the policies requiring the use of USOA and the applicable provisions of 26 S.C. Code Ann. Regs. 103-611. In addition, we grant waiver of 26 S.C. Code Ann. Regs. 103-631 which requires publication of a local telephone directory.

13. The Amended Settlement Agreement between the parties should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Pac-West to provide intrastate interLATA service and to originate and terminate toll traffic within the same LATA, as set forth herein, through facilities-based provisioning or resale of intrastate Wide Area Telecommunications Services (WATS), Message Telecommunications Service (MTS), Foreign Exchange Service, Private Line Service, or any other services authorized for resale by tariffs of carriers approved by the Commission, as well as to provide local exchange telecommunications services within the State of South Carolina.

2. The Company's rate designs for its products shall comport to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Pac-West shall file its revised tariff and an accompanying price list for any applicable rates within thirty (30) days of receipt of this Order. The revised tariff shall be consistent with

the findings of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Amended Settlement Agreement and the revised tariffs filed as a hearing exhibit.

4. Pac-West is subject to access charges pursuant to Commission Order No. 86-584, in which the Commission determined that for access purposes resellers and facilities-based interexchange carriers should be treated similarly.

5. With regard to the Company's resale of service, an end-user should be able to access another interexchange carrier or operator service provider if the end-user so desires.

6. Pac-West shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Pac-West changes underlying carriers, it shall notify the Commission in writing.

7. With regard to the origination and termination of toll calls within the same LATA, Pac-West shall comply with the terms of Order No. 93-462, Order Approving Stipulation and Agreement, in Docket Nos. 92-182-C, 92-183-C, and 92-200-C (June 3, 1993), with the exception of the 10-XXX intraLATA dialing requirement, which has been rendered obsolete by the toll dialing parity rules established by the FCC pursuant to the Telecommunications Act of 1996 (See, 47 CFR 51.209). Specifically, Pac-West shall comply with the imputation standard as adopted by Order No. 93-462 and more fully described in paragraph 4 of the Stipulation and Appendix B approved by Order No. 93-462.

8. Pac-West shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Pac-West shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp). The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1<sup>st</sup>**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31<sup>st</sup>** of each year. The proper form for filing gross receipts information can be found at the ORS website at [www.regulatorystaff.sc.gov](http://www.regulatorystaff.sc.gov), and the appropriate form is entitled "Gross Receipts Form."

9. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Pac-West shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized

Utility Representative Information” form can be found at the Commission’s website at [www.psc.sc.gov/reference/forms.asp](http://www.psc.sc.gov/reference/forms.asp); this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

10. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

11. At the hearing, Pac-West requested a waiver of 26 Code Ann. Regs. 103-610 (Supp. 2004), which requires that records required by the Commission’s Rules and Regulations be maintained in South Carolina. The record reveals that Pac-West’s principal headquarters will be located outside of South Carolina. Pac-West requests permission to maintain its books and records at its headquarters in its home office. The Commission finds Pac-West’s requested waiver reasonable and understands the difficulty presented to Pac-West should the waiver not be granted. The Commission therefore grants the requested waiver that Pac-West be allowed to maintain its books and records at its principal headquarters. However, Pac-West shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Pac-West shall promptly notify the Commission and ORS if the location of its books and records changes.

12. Pac-West also requests that it be exempt from record keeping policies that require a carrier to maintain its financial records in conformance with the Uniform System of Accounts (USOA), and any provisions of 26 S.C. Code Ann. Regs. 103-611 that may require the use of the USOA. The USOA was developed by the FCC as a means

of regulating telecommunications companies subject to rate base regulation. As a competitive carrier, Pac-West maintains its book of accounts in accordance with Generally Accepted Accounting Principles (GAAP). GAAP is used extensively by interexchange carriers and other providers. Accordingly, Pac-West requests an exemption from the USOA requirements and the applicable regulation. We grant the Company's request for the reasons stated above.

13. Each telecommunications company certified in South Carolina is required to file annually the Intrastate Universal Service Fund (USF) worksheet. This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The Intrastate USF worksheet is due to be filed annually no later than **August 15<sup>th</sup>** with the Commission and ORS.

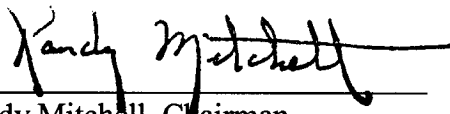
14. Pac-West is further required to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911" system or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Pac-West to contact the appropriate authorities regarding 911 service in the counties and cities where the company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning local telephone service in South Carolina. Accompanying this Order is a memo from the State 911 Office of the Office of Research & Statistics of the South Carolina Budget and Control Board. This memo

provides information about contacting County 911 Coordinators. By this Order and prior to providing local telephone services in South Carolina, Pac-West shall contact the 911 coordinator in each county (and city where the city has its own 911 system) and shall provide information regarding the Company's operations as required by the 911 system.


15. The Amended Settlement Agreement between the parties is hereby approved.

16. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
\_\_\_\_\_  
Randy Mitchell, Chairman

ATTEST:

  
\_\_\_\_\_  
G. O'Neal Hamilton, Vice-Chairman

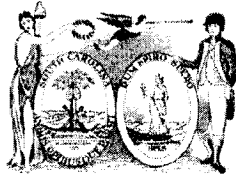
(SEAL)

STATE OF SOUTH CAROLINA  
*State Budget and Control Board*  
OFFICE OF RESEARCH & STATISTICS

MARK SANFORD, CHAIRMAN  
GOVERNOR

GRADY L. PATTERSON, JR.  
STATE TREASURER

RICHARD ECKSTROM  
COMPTROLLER GENERAL



HUGH K. LEATHERMAN, SR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

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CHAIRMAN, WAYS AND MEANS COMMITTEE

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EXECUTIVE DIRECTOR

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1000 ASSEMBLY STREET, SUITE 425  
COLUMBIA, SOUTH CAROLINA 29201

Bobby Bowers  
DIRECTOR

August 2, 2004

To: Telephone Companies New to South Carolina

In an effort to continue providing quality emergency services to the citizens of South Carolina, the State 911 Office requests that before beginning telephone services in a county, you contact the 911 Coordinator in that county. This will allow both parties to obtain important information about providing 911 services in that county. If you have already begun services, then contact the coordinator as soon as possible.

A list of County 911 Coordinators can be found on the South Carolina E911 homepage at [www.ors.state.sc.us/digital/E-911.ASP](http://www.ors.state.sc.us/digital/E-911.ASP). If you have any questions related to 911 in South Carolina, you may contact E911 Coordinations at the Office of Research and Statistics at 803-734-3883. The person responsible for this can also be found on the 911 homepage. Please be aware that some cities may have their own E911 systems, these are also listed on the 911 homepage. These city coordinators will need to be contacted in addition to the county coordinators.

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BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

Docket No. 2005-294-C

RECEIVED  
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SC PUBLIC SERVICE  
COMMISSION

Re: Application of Pac-West Telecomm, Incorporated)  
for a Certificate of Public Convenience and )  
Necessity to Provide Facilities-based and Resold )  
Local Exchange and Interexchange Telecommu- )  
nications Services in the State of South Carolina )  
\_\_\_\_\_ )

**STIPULATION**

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Pac-West Telecomm, Incorporated ("Pac-West") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, SCTC does not oppose Pac-West's Application. SCTC and Pac-West stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Pac-West, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Pac-West stipulates and agrees that any Certificate which may be granted will authorize Pac-West to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Pac-West stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Pac-West stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until Pac-West provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Pac-West acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Pac-West stipulates and agrees that, if Pac-West gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, and either (a) the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law within such 30-day period, or (b) the Commission institutes a proceeding of its own, then Pac-West will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Pac-West acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs and Pac-West, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. Pac-West agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone

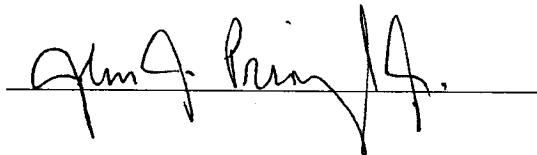
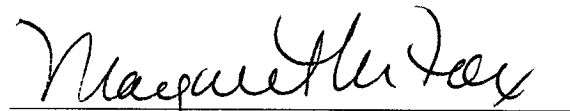
service at affordable rates.

9. Pac-West hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 15<sup>th</sup> day of December,  
2005.

Pac-West Telecomm, Incorporated

South Carolina Telephone Coalition:

A handwritten signature in black ink, appearing to read "M. John Bowen, Jr.", written over a horizontal line.A handwritten signature in black ink, appearing to read "Margaret M. Fox", written over a horizontal line.

M. John Bowen, Jr.

Margaret M. Fox

McNAIR LAW FIRM, P.A.

Post Office Box 11390

Columbia, South Carolina 29211

(803) 799-9800

Attorneys for the South Carolina Telephone  
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies  
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.  
Chesnee Telephone Company  
Chester Telephone Company  
Farmers Telephone Cooperative, Inc.  
Ft. Mill Telephone Company  
Home Telephone Company, Inc.  
Lancaster Telephone Company  
Lockhart Telephone Company  
McClellanville Telephone Company  
Norway Telephone Company  
Palmetto Rural Telephone Cooperative, Inc.  
Piedmont Rural Telephone Cooperative, Inc.  
Pond Branch Telephone Company  
Ridgeway Telephone Company  
Rock Hill Telephone Company  
Sandhill Telephone Cooperative, Inc.  
St. Stephen Telephone Company  
West Carolina Rural Telephone Cooperative, Inc.  
Williston Telephone Company

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2005-294-C**  
**January 10, 2006**

**IN RE:**

**Application of Pac-West Telecomm, )  
Incorporated for a Certificate of )  
Public Convenience and Necessity to )  
Provide Resold and Facilities-Based )  
Local Exchange and Interexchange )  
Telecommunications Services in the )  
State of South Carolina. )**

**AMENDED  
SETTLEMENT AGREEMENT**

This Settlement Agreement ("Settlement Agreement") is made by and among the Office of Regulatory Staff ("ORS") and Pac-West Telecomm, Inc., ("Pac-West" or "the Company") (collectively referred to as the "Parties" or sometimes individually as "Party").

WHEREAS, on September 23, 2005, the Company filed its application requesting a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange and interexchange telecommunications services throughout the State of South Carolina, flexible regulation for its local exchange services pursuant to Order No. 98-165 in Docket No. 97-467-C, and alternative regulation for its interexchange services pursuant to South Carolina Code § 58-9-585 (Supp.1999), as was first granted by the Commission in Order Nos. 95-1734 and 96-55 in Docket No. 97-467-C;

WHEREAS, on October 13, 2005, the Public Service Commission of South Carolina (the "Commission") issued a Notice of Filing and Hearing and set return dates

for the hearing in the above captioned matter scheduled to be heard before a Hearing Examiner on January 9, 2005;

WHEREAS, the South Carolina Telephone Coalition ("SCTC") filed a Petition to Intervene in this matter on October 26, 2005;

WHEREAS, on November 30, 2005, Pac-West pre-filed testimony of John F. Sumpter with the Commission;

WHEREAS, on December 5, 2005 the SCTC filed a stipulation between SCTC and Pac-West;

WHEREAS, the purpose of this proceeding is to review the application filed by the Company and its request for a Certificate of Public Convenience and Necessity;

WHEREAS, since the filing of the notice, ORS has conducted a review of the technical, managerial, and financial expertise of the Company to provide such services;

WHEREAS, ORS has reviewed the application and the financial data provided by the Company, and ORS has calculated certain performance ratios based upon information provided by the Company;

WHEREAS, ORS has investigated the services to be offered by the Company and its intended customer service plans;

WHEREAS, ORS has reviewed the proposed tariffs submitted by the Company;

WHEREAS, as a result of its investigations, ORS has determined a) the Company intends to offer voice services utilizing the traditional circuit-switched public network and using Internet Protocol to provide voice and data applications that interact with the traditional public switched networks and to offer these services throughout the state; b) the Company does not intend to offer prepaid calling cards; c) the officers of the

Company possess sufficient technical and managerial abilities to adequately provide the services applied for; d) based upon the information provided and the analysis performed, the Company appears to have the financial resources necessary to provide the services proposed in its application; e) certain revisions should be made to the Company's proposed tariffs in order to comply with Commission statutes and regulations; f) the services provided by the Company will meet the service standards required by the Commission; g) the provision of local services by the Company will not adversely impact the availability of affordable local exchange service; h) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates; i) the provision of local and interexchange services by the Company will not adversely impact the public interest; and j) the Company has initiated negotiations or will initiate negotiations with one or more of the incumbent local exchange carriers for interconnection or commercial agreements applicable to services to be provided in South Carolina.

WHEREAS, to ensure compliance with the Commission's statutes and regulations, the Parties have agreed to the following comprehensive settlement of all issues in this docket.

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties agree to stipulate into the record before the Commission this Settlement Agreement. The Parties also agree to stipulate to the pre-filed testimony of Pac-West Witness John F. Sumpter who will be presented without cross-examination by ORS;

2) Pac-West agrees to submit into the record before the Commission revised tariffs in accordance with ORS recommendations;

3) The Parties agree that the Company should be granted a Certificate of Public Convenience and Necessity to provide resold and facilities-based local exchange and interexchange telecommunications services within the State of South Carolina;

4) ORS does not oppose the Company's request for waiver of 26 S.C. Code Ann. Regs. 103-610 (location of books and records), 103-631 (publication of directories), and any Commission rules or policies requiring a carrier to maintain its financial records in conformance with the Uniform System of Accounts ("USOA"), and the Parties agree to the reasonableness of a waiver of 26 S.C. Code Ann. Regs. 612.2.3 (Operating Area Maps);

5) ORS does not oppose the Company's request that the Commission allow it to employ a flexible local exchange rate structure as described in its application and as first authorized by the Commission in Order No. 98-165 in Docket No. 97-467-C; ORS does not oppose the Company's request that its interexchange services be subject to alternative regulation, pursuant to South Carolina Code § 58-9-585 (Supp.1999), as was first granted by the Commission in Order Nos. 95-1734 and 96-55 in Docket No. 97-467-C;

6) Pac-West agrees to resell the services of only those interexchange carriers or local exchange carriers authorized to do business in South Carolina by the Commission. Pac-West agrees to notify ORS and the Commission, in writing, if the Company changes underlying carriers;



7) When appropriate and upon request, the Company agrees to engage in good faith negotiations with non-BellSouth incumbent local exchange carriers whose networks interconnect with BellSouth at the same local tandem regarding traffic exchange;

8) Pac-West agrees that the Company will allow an end-user of resold services to access an alternative interexchange carrier or operator service provider if the end-user expresses such a desire;

9) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, annual reporting and/or gross receipts reporting and remit fees as appropriate;

10) The Company agrees to comply with South Carolina Code Section § 58-9-300 entitled "Abandonment of Service." Additionally, the Company agrees to adhere to the Federal Communication Commission rules 47 C.F.R. §§ 64.1190 and 64.1130 regarding preferred carrier freezes and the requirement that the form of the written authorization for the institution of the freeze be a separate or easily separable document. Prior to abandonment of service, the Company shall remove any preferred carrier freeze so as to enable consumers to seamlessly transfer their telephone numbers to another provider;

11) The Company agrees to comply with Title 23, Chapter 47 of the South Carolina Code Annotated, which governs the establishment and implementation of a "Public Safety Communications Center" also known as "911 service." The Company agrees to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating prior to initiating local service in South

Carolina and shall provide the 911 coordinator in each county and/or city with information regarding the Company's operations. Attached as Exhibit 1 to this Settlement Agreement is a memorandum from the State 911 Office which provides contact information for the County 911 Coordinators;

12) ORS is charged by law with the duty to represent the public interest of South Carolina pursuant to S.C. Code § 58-4-10(B) (added by Act 175). S.C. Code § 58-4-10(B)(1) through (3) read in part as follows:

... 'public interest' means a balancing of the following:  
(1) concerns of the using and consuming public with respect to public utility services, regardless of the class of customer;  
(2) economic development and job attraction and retention in South Carolina; and  
(3) preservation of the financial integrity of the State's public utilities and continued investment in and maintenance of utility facilities so as to provide reliable and high quality utility services.

ORS believes the Settlement Agreement reached among the Parties serves the public interest as defined above;

13) The Parties agree to advocate that the Commission accept and approve this Settlement Agreement in its entirety as a fair, reasonable and full resolution of all issues in the above-captioned proceeding and to take no action inconsistent with its adoption by the Commission. The Parties further agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein;

14) The Parties agree that signing this Settlement Agreement will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Settlement Agreement in its entirety, then any Party desiring to do so may withdraw from the Settlement Agreement in its entirety without penalty or obligation;

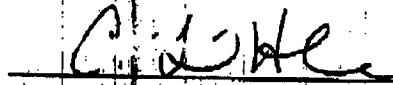
15) This Settlement Agreement shall be interpreted according to South Carolina law;

16) The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by affixing its signature or by authorizing counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and email signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the original signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement. The Parties agree that in the event any Party should fail to indicate its consent to this Settlement Agreement and the terms contained herein, then this Settlement Agreement shall be null and void and will not be binding on any Party.

[SIGNATURE PAGE FOLLOWS]

**WE AGREE:**

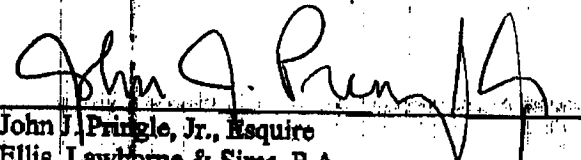
**Representing the Office of Regulatory Staff**



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**WE AGREE:**

**Representing Pac-West Telecomm, Incorporated**



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